Serial No.: 10/724,844
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Art Unit: 1614

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REMARKS

Applicants respectfully request the Examiner to reconsider the rejection in view of the following remarks.

Status of Claims

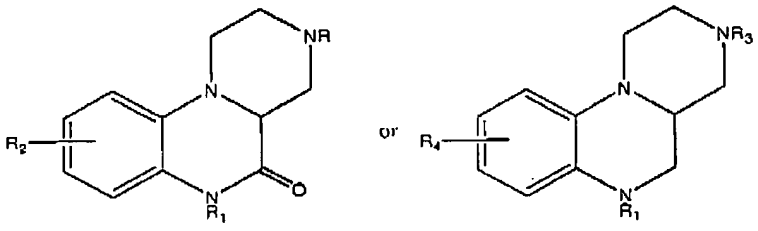
Claims 1 to 19 are pending. Claims 1 to 19 have been rejected under 35 U.S.C. §103(a).

Rejection Under Section 103(a)

Claims 1 to 19 have been rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 4,032,639 to Freed at al. (hereinafter referred to as "Freed"). Applicants respectfully traverse this rejection for the reasons set forth below.

Applicants respectfully point out that as recited in MPEP § 2143, "to establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation ... to modify the reference ... Second, there must be a reasonable expectation of success. Finally, the prior art reference must teach or suggest all the claim limitations." For the reasons set forth below, Applicants respectfully submit that a *prima facie* case of obviousness has not been established.

Applicants respectfully submit that the Office Action has failed to show that the cited reference teaches or suggests all of the claim limitations as required to support a prima facie case of obviousness. In this regard, Freed neither discloses nor suggests Applicants' compounds where at least two of R_1, R_2, R_3, and R_4 are not hydrogen as defined in the claims. In this regard it is first noted that Freed is directed to compounds having the following formula:



where the benzene portion of the quinoxaline is ***optionally mono***substituted by a nonhydrogen moiety or atom. In contrast, Applicants' invention as claimed recites that at least 2 of R_1, R_2, R_3, R_4 **not** be hydrogen. Thus, Freed neither discloses nor suggests Applicants invention.

Moreover, Applicants respectfully submit that the Office Action has not established a motivation for modifying Freed, nor a reasonable expectation of success within Freed. In this regard, Freed discloses that its compounds have utility for treating hypertension. In contrast, Applicants' invention is directed towards compounds having affinity for the $5HT_{2c}$ receptor. Thus, one of ordinary skill in the art would not even look to Freed, because Freed nowhere mentions the desire to identify compounds having affinity for the $5HT_{2c}$ receptor. It is emphasized that the Federal Circuit has held that "[w]here the prior art does not teach the utility asserted for the claimed compounds, the expectation may not arise, and the motivation would dissipate." See *In re Lalu*, 747 F.2d 703, 707 (Fed. Cir. 1984). In the present case, Freed provides no reasonable expectation of success that any of the compounds disclosed therein would be useful as 5HT2c agonists, and thus does not establish a *prima facie* case of obviousness.

In view of the above remarks, Applicants respectfully submit that Claims 1 to 19 would not have been obvious to one of ordinary skill in the art over Freed. Accordingly, Applicants respectfully request that the rejection under Section 103(a) be withdrawn and that all claims be passed to allowance.

CONCLUSION

Applicants respectfully request withdrawal of all outstanding rejections. Early and favorable notification of allowance of all pending claims is earnestly requested.

Respectfully Submitted,

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